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RESPONSE

November 3, 2016

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11/10/16 11:44:00 AM

Lisa J. Stevenson, Esq.
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RESPONSE

IR # 7186

Re: Maryland Democrats Improper November 1, 2016 Communication

Dear Sir or Madam:

This letter responds to the Maryland Democrat Party's legally incorrect and improper statements made in a letter dated November 1, 2016 to the above addressees. The letter alleges that Kathy for Maryland, the authorized US Senate campaign committee for Maryland Delegate Kathy Szeliga, violates federal election law in three ways. Each of these allegations is incorrect.

First, the Democrats allege that the ad violates 11 CFR 110.11(c)(3)(iii) by not providing a clearly readable writing at the end of the television communication. However, this statement is demonstrably incorrect based on reviewing the ad and the applicable regulations. To meet the "clearly readable" standard, the "statement," in this case "PAID FOR AND APPROVED BY KATHY FOR MARYLAND," must meet the following requirements.

(A), it must be "equal to or greater than four (4) percent of the vertical picture height." *Id.* The statement the Democrats complain about is 4.7%.

(B), the "statement must be visible for a period of at least four (4) seconds." *Id.* The statement the Democrats complain about is visible from the 0:25 frame through the 0:29 frame for nearly five (5) full seconds.

(C), "the degree of color contrast between the background and the text of the statement is no less than the color contrast between the background and the largest type size used in the communication." *Id.* The largest type size in the ad appears in three places between the 0:14 and 0:18 seconds frames. The three relevant items of text are: "HIGHER TAXES," "HUGE DEFICITS," AND "BROKEN VA." These items of texts have a less clear contrast than the "PAID FOR AND APPROVED BY KATHY FOR MARYLAND" statement in the 0:25 through 0:29 frames. In fact, the H in HIGHER TAXES, the G E D E in HUGE DEFICITS, and the O K N V in BROKEN VA have virtually no contrast and demonstrably less contrast than the PAID FOR AND APPROVED BY KATHY FOR MARYLAND statement.

The Democrats second allegation – that the statement at the end of the ad does not appear for four seconds – is similarly incorrect. As noted in the prior paragraph, the disclaimer statement is visible for nearly five seconds.

It is not clear what the Democrats are trying to allege in their third allegation. This allegation cites to 11 CFR 110.11(c)(3)(iii). However, as noted above, the ad meets all of these relevant requirements. The ad also meets the requirements of 11 CFR 110.11(c)(3)(ii)(A) in frames 0:00 through 0:03, wherein Delegate Szeliga appears in a full screen and states "I'm Kathy Szeliga and I approved this message." It is worth noting that the (c)(iii) requirements only apply to a "writing at the end of the television communication," as opposed to the (c)(ii) requirements which do not require this aspect of the disclaimer to be at the end of the ad. Perhaps this is the source of the Democrats confusion.

I trust that once each addressee has the opportunity to review the ad and consult with legal counsel experienced in matters of FEC election law, no action will be taken in response to the Democrats November 1, 2016 letter. Should you have any questions in the above regard, please do not hesitate to contact me.

Very truly yours,



Dirk Haire

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